U.S. Department of Justice
Criminal Division
Asset Forfeiture and Money Laundering Section

Asset Forfeiture News

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Wireless Telephone Protection Act Adds Criminal Forfeiture Provision to 18 U.S.C. §1029

By Mike Payne, Trial Attorney, AFMLS, Criminal Division

On April 24, 1998, the Wireless Telephone Protection Act, Pub. L. No. 105-172, 112 Stat. 53 (1998), enacted amendments to 18 U.S.C. §1029 that include the addition of a new criminal forfeiture provision at section 1029(c)(1)(C). The new measure provides for the criminal forfeiture of "any personal property used or intended to be used" to commit an offense under section 1029. Civil forfeiture for such property is not included in the legislation. Procedures for criminal forfeiture under section 1029 are incorporated by reference from 21 U.S.C. § 853 at section 1029(c)(2).

Proceeds traceable to section 1029 offenses already are forfeitable criminally under 18 U.S.C. § 982(a)(2)(B) and civilly under 18 U.S.C. § 981(a)(1)(C). Unlike forfeitures of section 1029 proceeds under 18 U.S.C. §§ 981 and 982, which include real property, the new section 1029(c)(1)(C) covers only personal property. In addition, section 1029(c)(1)(C) does not provide broad coverage for the forfeiture of "facilitating" property in general. *Compare* 21 U.S.C. § 853(a)(2) (providing for criminal forfeiture of "any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of [a narcotics offense]"). Consequently, it appears that the new section 1029(c)(1)(C) is limited to only the kinds of personal property that necessarily must be "used or intended to be used" directly in the commission of a section 1029 offense.

Most section 1029 offenses concern fraud and fraud-related activity involving the knowing trafficking in, possession, production, or use of counterfeit or unauthorized "access devices" or device-making equipment. *See* 18 U.S.C. § 1029(a)(1)-(6) and (10). Section 1029 defines the term "access device" to mean:

> any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service,

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> equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument).

18 U.S.C. §1029(e)(1). "Device-making equipment" is defined to mean "any equipment, mechanism or impression, designed or primarily used for making an access device or a counterfeit access device." 18 U.S.C. §1029(e)(6).

Finally, section 1029 prohibits the knowing trafficking in, possession, production, or use, with intent to defraud, of telecommunications instruments that have been modified or altered to obtain unauthorized telecommunications services (18 U.S.C. §1029(a)(7)), "scanning receivers" that can be used to illegally intercept a wire or electronic communication (18 U.S.C. §1029(a)(8)), and hardware or software configured to insert or modify identifying information for a telecommunications instrument so that such instrument can be used to obtain unauthorized telecommunications services (18 U.S.C. §1029(a)(9)).

USPIS Case Stories

Telemarketing Fraud Dynasty Toppled by RICO Forfeiture

By Walt Ladick, Program Administrator, Asset Forfeiture Group, U.S. Postal Inspection Service

Guilty pleas culminated a U.S. Postal Inspection Service (USPIS) investigation of Pioneer Enterprises for conducting possibly the largest telemarketing fraud operation ever identified in the United States. Operating out of Las Vegas, Nevada, Pioneer defrauded hundreds of thousands of victims nationwide of over $159 million. On April 28, 1998, the last of 17 defendants pled guilty to RICO charges, which included criminal forfeiture counts. At one time Pioneer employed between 800 and 1,200 employees in offices located in Buffalo, New York; Ogden, Utah; Bullhead City, Arizona; and Las Vegas, Nevada.

Pioneer solicited customers by mailing them certificates or placing calls advising them that they won one of five major awards. Customers were enticed to purchase vitamins, air purifiers, water purifiers, beauty products, and other items at greatly inflated prices, with the promise of an award that would exceed the cost of the products. The "awards" were simply trinkets of negligible value.

On April 17 an agreement was reached with the remaining 13 defendants for a unanimous guilty plea. Previously, four defendants pled guilty and agreed to testify for the Government. The testimony proved valuable, as it provided detailed information on the inner workings of the enterprise. The defendants agreed to forfeit the amount each gained while employed by Pioneer. The total amount subject to forfeiture exceeded $19 million.

A notable aspect of the case, which did not affect the forfeiture action, occurred at the "vulnerable victims" hearing. The hearing was requested by defense attorneys on behalf of their clients and was held before sentencing.

> *Victims' restitution is generally a top priority for agents on the case, as well as prosecutors . . . [and] defense counsel. . . .*

In fraud cases, victims' restitution is generally a top priority for agents on the case, as well as prosecutors. In today's world, it is also an issue for defense counsel, as it can affect sentencing.

When the hearing was held with the final 13 defendants on June 16, 1998, the Government flew in two elderly witnesses for testimony. A cooperating witness faced the victims and voiced his remorse for his actions. Victims later agreed that the apology went a long way toward helping them resolve their feelings of anger.

They had earlier met with the forfeiture specialist on the case and listened to a brief explanation of how forfeiture works. The women were pleased to hear that the defendants would not be "living like kings" with their ill-gotten gains. They thanked every person involved in helping them on the case.

USPIS extends its thanks to Department of Justice Fraud Section Attorneys David Bybee and Charles Cobb for their successful prosecution of this case.

Ten Canadians Charged with Defrauding Elderly Americans of $125 Million in Foreign Lottery Fraud

By Public Affairs Office, U.S. Postal Inspection Service, Seattle, Washington

Seattle—An investigation by the U.S. Postal Inspection Service (USPIS), the U.S. Customs Service (USCS), and the Internal Revenue Service's Criminal Investigation Division (IRS-CID) resulted in an indictment against ten Canadians charged with mail fraud, U.S. Customs violations, illegal gambling, and money laundering in an international lottery they operated to defraud elderly U.S. citizens. In May 1998, Attorney General Janet Reno requested that the Canadian Justice Minister speed the extradition of James Blair Down, the alleged mastermind of the scheme, so that evidence could be heard before more victims died. Forty-two victim witnesses already have passed away.

The indictment outlines a conspiracy headed by James Down that began in 1990 and continued through August 1996. Down was charged with marketing and selling foreign lottery interests to U.S. citizens, an illegal activity. His group operated from telephone rooms at Vancouver and Kelowna, British Columbia, and Toronto, Canada, under such names as "The Lottery Connection (TLC)," "Winner's," "New Eagle," and "Project Rainbow," in order to illegally sell chances, shares, and interests in the Australian "Aussie 6/45 Super Draw Products" and the Spanish "El Gordo" lotteries. Promoters allegedly collected payments through credit card authorizations and automated bank transfers, and by checks and money orders sent through the U.S. mail.

Down is said to have opened bank accounts in Washington, California, and Vancouver to deposit proceeds from the fraud. Fraser B. Barnes and Trevor G. Street, his marketing managers, allegedly directed the illegal promotions and visited customers who had invested large sums of money in Down's lotteries. Linda K. Stromberg was allegedly an administrator, vice president, and, later on, president of one of the companies, overseeing telephone sales rooms and setting up bank accounts in which to deposit customers' payments. Ravinder Hayler was general manager of accounting and

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Articles in the *Asset Forfeiture News* are intended to assist federal prosecutors and agents in enforcing the forfeiture laws by providing guidance, information, and references. Unless otherwise stated, they represent the views of the individual authors, and not necessarily the Department of Justice. Nothing contained herein creates or confers any rights, privileges, or benefits for or on any claimant, defendant, or petitioner. *United States v. Caceres*, 440 U.S. 741 (1979).

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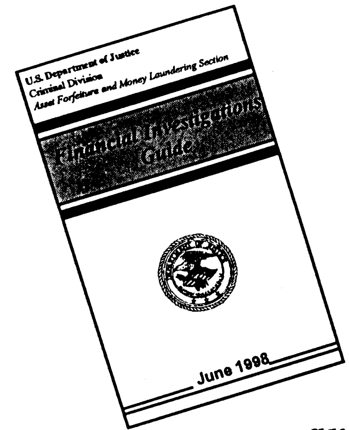
allegedly directed telephone solicitors in identifying potential customers, developing mailing and telephone lists for marketing products, and transferring funds to Down's accounts in Washington. Celedonia S. Cleto was named as accountant for several of Down's companies. She is charged with using false names to promote lottery sales and with establishing and operating bank accounts to receive and distribute illegal lottery proceeds.

Four other defendants, Anthony Korkulanic, Brian Davy, Marc Berthaudin, and Joan Livingstone, were also charged in the lottery sales conspiracy. Korkulanic, Berthaudin, and Livingstone managed telemarketing operations for Down in Canada; Davy managed a lottery mailing operation. Berthaudin and Livingstone later moved to Barbados to assist Down with product marketing and fulfillment.

The indictment states that the defendants were aware that the lottery business violated U.S. laws and resorted to various tactics to avoid efforts by postal inspectors and Customs agents to detect and seize promotional mailings. A 73-year-old Seattle resident lost approximately $100,000 in about one year; an 83-year-old resident of Ardmore, Oklahoma, lost $90,000 in about six months; an 82-year-old resident of Robert Lee, Texas, lost about $120,000 in a four-month period; and a 93-year-old resident of Hansville, Washington, lost over $75,000 in a four-month period. Eight hundred eighty individuals were targeted. Their average age was 74 years, and 192 of the victims lost an average of over $50,000 each.

In June 1997, the United States filed a complaint in the United States District Court in Seattle for forfeiture of assets totaling over $12.3 million allegedly derived from the illegal foreign lottery the group operated. The assets were kept in brokerage securities accounts held by Down and seized in January 1997 because of an alleged connection with a related money laundering scheme. In May 1998, the Swiss government disclosed that, in response to a request by the United States, funds in Swiss accounts held by Down were frozen for 90 days to allow victims to file claims for losses. Postal inspectors have begun efforts to assist victims.

The Attorney General requested that the Canadian Justice Minister speed the extradition, so that evidence could be heard before more victims died.



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Telemarketing Fraud Prevention Act Adds Criminal Forfeiture Provision to 18 U.S.C. § 982

By Mike Payne, Trial Attorney, AFMLS, Criminal Division

On June 23, 1998, the Telemarketing Fraud Prevention Act of 1998, Pub. L. No. 105-184, 112 Stat. 520 (1998), amended 18 U.S.C. § 982 by adding a new criminal forfeiture provision at section 982(a)(8). The new provision is limited to violations of certain fraud statutes where the facts of the specific violation involve "telemarketing" as defined in 18 U.S.C. § 2325. As defined in section 2325, the term "telemarketing" means:

> . . . a plan, program, promotion, or campaign that is conducted to induce—
>
> (A) purchases of goods or services; or
>
> (B) participation in a contest or sweepstakes, by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant.

18 U.S.C. § 2325(1).

Section 2325 specifically excludes from the definition of "telemarketing" the solicitation of sales by means of mailed catalogs that are issued at least annually, contain multiple pages of descriptive written material or illustration of the goods or services offered, and contain the business address of the seller, "if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls take [*sic*] orders without further solicitation." 18 U.S.C. § 2325(2).

The offenses for which criminal forfeiture is available under the new section 982(a)(8), if they involve "telemarketing," are 18 U.S.C. §§ 1028 (fraud and related activity in connection with identification documents), 1029 (fraud and related activity in connection with access devices), 1341 (mail fraud), 1342 (fictitious name or address for mailings), 1343 (fraud by wire, radio, or television), 1344 (bank fraud), and conspiracy to commit such offenses. The new measure provides for the criminal forfeiture of:

Section 2325 specifically excludes from the definition of "telemarketing" the solicitation of sales by means of mailed catalogs. . . .

> . . . any real or personal property—
>
> (A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and
>
> (B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.

18 U.S.C. § 982(a)(8).

The new legislation provides procedures for such criminal forfeitures by adding the new subsection (a)(8) to section 982(b)(1)(A)'s list of section 982 subsections for which procedures for drug-related criminal forfeitures under 21 U.S.C. § 853 (including section 853(f) for warrants of seizure) are incorporated by reference.

Civil forfeiture of property involved in fraud offenses that involve telemarketing is not included in the new legislation. However, proceeds traceable to sections 1028 and 1029 offenses are forfeitable civilly under 18 U.S.C. § 981(a)(1)(C) and criminally under 18 U.S.C. § 982(a)(2)(B), independently of telemarketing activity. Similarly, proceeds traceable to section 1341, 1343, and 1344 offenses "affecting a financial institution" are forfeitable civilly under 18 U.S.C. § 981(a)(1)(C) and criminally under 18 U.S.C. § 982(a)(2)(A) independently of telemarketing activity.

Also, the new 18 U.S.C. § 1029(c)(1)(C), enacted April 24, 1998, by Pub. L. No. 105-172, 112 Stat. 53 (1988) (the Wireless Telephone Protection Act), provides for criminal forfeiture of "any personal property used or intended to be used" to commit any offense under section 1029. *See* article at page 1. Civil forfeiture of the proceeds of sections 1028,1029, 1341, 1343, and 1344 offenses may also be accomplished under 18 U.S.C. § 981(a)(1)(A), independently of telemarketing whenever the proceeds of such offenses were involved in a money laundering offense.

Settlement of Attorneys' Fees in *Saccoccia* Case

By Michael E. Davitt, Trial Attorney, AFMLS, Criminal Division

On May 8, 1998, Robert Luskin, a prominent Washington, D.C., attorney and former Department of Justice lawyer, who represented convicted money launderer Stephen Saccoccia, agreed to turn over to the Government $245,000 in fees paid to him by Saccoccia. In January the U.S. Attorney for the District of Rhode Island had moved to recover money Saccoccia paid to Luskin and four other attorneys, arguing that the money came from forfeited and/or forfeitable criminal assets.

In May 1993, Stephen Saccoccia was sentenced to 660 years in prison and ordered to forfeit $137 million in money laundering proceeds, as well as all the property acquired or maintained by Saccoccia's money laundering enterprise pursuant to 18 U.S.C. § 1963(a)(1) and (3). The indictment had alleged the forfeiture of such assets and had notified the defendants that the Government would be seeking forfeiture of substitute assets. The court expressed its view that the judgment would be satisfied from substitute assets. Furthermore, the court had entered a protective order at the time of indictment restraining all assets and proceeds of the enterprise including up to $140 million in U.S. currency.

After the entry of the forfeiture order, the Government took note that Saccoccia was continuing to hire and presumably pay up to a dozen attorneys. In an effort to find the source of these continuing payments, the Government asked the court for authorization to depose these attorneys with respect to their fee arrangements pursuant to 18 U.S.C. § 1963(k).[1] The attorneys objected, arguing that such depositions would violate the attorney-client privilege, the Fifth Amendment's privilege against self-incrimination, and/or the defendants' Sixth Amendment right to counsel. The court rejected these arguments holding that: (1) fee information is not privileged; (2) the defendants' Sixth Amendment rights were not implicated at this stage in the case where all trials and appeals were completed; and (3) while the defendants may have had a Fifth Amendment right to refuse to speak, the defendants' rights could not be invoked by their attorneys. The court dismissed the attorneys' invocation of their own Fifth Amendment rights finding that, by arguing that the fee information at issue falls within the attorney-client privilege, they implicitly had represented that there was no reason to believe that the amounts paid to them were from illegal activities. *See U.S. v. Saccoccia*, 898 F. Supp 53 (D.R.I. 1995).

The attorneys should not have accepted any fees from Saccoccia until the outstanding $137 million judgment had been satisfied.

When the Government subpoenaed the attorneys to appear at the depositions, Saccoccia moved to quash the subpoenas arguing that Fed. R. Crim. P. 15, which is incorporated in section 1963(k), provides that a defendant has a right to be present at such depositions. The Government, needless to say, had not provided for Saccoccia's presence. The Government argued that Congress, in drafting a statute explicitly designed to expand and improve the Government's ability to forfeit criminals' assets, could not possibly have intended to give a convicted defendant the right to monitor depositions through which the Government was striving to locate that defendant's hidden assets. The court held that it and the Government were constrained by the plain language of section 1963(k) and Rule 15 to provide for Saccoccia's presence at the depositions. *U.S. v. Saccoccia*, 913 F. Supp. 129 (D.R.I. 1996). Thus, Saccoccia and his wife and codefendant, Donna, attended each deposition. Picture, if you can, interrogating the opposing counsel about his fees, in the presence not only of his counsel but of the defendants and their counsel. Distracting issues and objections, usually involving attorney-client privilege, abounded.

Through these depositions, it was learned that some of these attorneys were paid in gold bars, in cash left in cars or dropped off by anonymous donors, and through wire transfers from Switzerland. Luskin had received payments after the order of forfeiture in gold bars and wire transfers from Switzerland.

The evidence adduced during the three trials of Saccoccia and his criminal associates showed that for several years on a full-time basis they took cash from street-level cocaine deals, purchased gold with the cash, sold the gold for checks which were deposited in banks, and wire transferred the proceeds to Colombia and Switzerland. While the Government was unable to trace the cash, gold, or wire transfers directly to Saccoccia's money laundering operation, the Government contended that the form of the fees and manner of payment were sufficient to show that they were the assets or proceeds of Saccoccia's money laundering enterprise that had been ordered forfeit. In the alternative, the Government contended that they were substitute assets. Thus, the attorneys—who were on notice that the Government intended to satisfy its money judgment against Saccoccia through the forfeiture of substitute assets—should not have accepted any fees from Saccoccia until the outstanding $137 million judgment had been satisfied. The Government further contended that the protective order restraining substitute assets remained in force after the order of forfeiture was entered.

Luskin had contended that the fees he accepted were clean and were not the same as those ordered forfeit. He also contended that the protective order evaporated upon the entry of the final order of forfeiture and that case law and Department policy support the position that substitute assets are available until the Government names them in an amended forfeiture order. Certain cases support the position that the Government cannot forfeit clean assets that were paid to and earned by a third party before the entry of the final order of forfeiture even though they could forfeit clean assets still retained by a defendant as substitute assets. There are no cases that consider an attorney's taking of substitute assets in the face of an outstanding forfeiture money judgment, knowing that the Government intended to seek forfeiture of any substitute assets it could find.

Luskin provided legitimate legal services for Saccoccia. Luskin, as agreed to in the settlement, has made no admission of liability. The settlement was based on his returning to the Government slightly more than half of the challenged fees he retained. The proceedings against the other four attorneys continue.

The Department's policy with regard to forfeiture of assets which have been transferred to an attorney as fees for legal services (*United States Attorneys' Manual* § 9-111.000 *et seq.*) requires that proceedings to forfeit an asset transferred to an attorney as fees not be instituted without the prior approval of the Assistant Attorney General for the Criminal Division. *United States Attorneys' Manual* § 9-111.300. Such forfeitures may be pursued, notwithstanding the fact that the asset may have been transferred for legitimate services actually rendered, when there are reasonable grounds (other than compelled disclosures of confidential communications made during the course of representation) to believe that the attorney had actual knowledge that the asset was subject to forfeiture at the time of the transfer. *United States Attorneys' Manual* § 9-111.430. Such forfeitures almost invariably involve protracted and contentious proceedings. In a case where the attorney is no longer in possession of the forfeitable asset or property traceable thereto, the Government may have to file a common law conversion action to recover the value of the forfeitable asset. *See United States v. Moffitt, Zwerling, & Kemler, P.C.*, 83 F.3d 660, 666-67 (4th Cir. 1996), *cert. denied*, ___ U.S. ___, 117 S. Ct. 788

See ***Saccoccia****, page 19*

Growth of IRS's Asset Forfeiture Program

By Vicki Duane, Chief, Asset Forfeiture and Narcotics Section, National Operations Division, Internal Revenue Service

Asset forfeiture is not a new concept for the Internal Revenue Service's Criminal Investigation Division (IRS-CID). The Internal Revenue Code (IRC) has provided for the forfeiture of certain taxable property under the provisions of section 7301 and the forfeiture of property intended for use in violation of internal revenue laws under the provisions of section 7302. While forfeiture provisions were available to enforcement personnel of IRS-CID, the forfeiture process was not widely used until the enactment of the Money Laundering Control Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207 (1986), and the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181 (1998).

As the nation's enforcement efforts in the "War on Drugs" increased during the late 1980s, the expertise of IRS-CID in financial investigations became increasingly important. Financial investigations provide the basis for multi-agency initiatives and aid in the identification, disruption, and dismantling of major narcotics-related enterprises. Financial investigations resolve complex and convoluted transactions to identify the organizational structure of illegal drug and money laundering operations, provide the basis for criminal prosecution, and identify monies and assets for seizure and forfeiture. IRS-CID's Asset Forfeiture Program grew during this fertile period and was eventually incorporated into the organizational structure of IRS headquarters in 1990. The program is administered under IRS-CID's Asset Forfeiture and Narcotics Section.

Prior to fiscal year 1994, the IRS was a member of the Department of Justice Assets Forfeiture Fund. On October 1, 1993, the IRS became a member of the Department of the Treasury Forfeiture Fund, which was established by the Treasury Postal Appropriations Act of 1992, Pub. L. No. 102-393, 106 Stat. 1729 (1992), and is codified in 31 U.S.C. § 9703. The Treasury Forfeiture Fund was created to consolidate all Treasury law enforcement organizations under a single forfeiture fund program administered by the Department of the Treasury and to provide Treasury with a greater voice in the allocations and use of its resources.

The principle goals of the Treasury forfeiture program are: (1) to deprive criminals of property used in or acquired through illegal activities; (2) to encourage joint operations among foreign, federal, state, and local law enforcement agencies; (3) to protect the rights of the individual; and (4) to strengthen law enforcement. To assist in the realization of these goals, the Asset Forfeiture and Narcotics Section performs numerous functions in order to ensure an effective forfeiture program. Conceptually, these functions consist of policy oversight, support, and processing, although the functional divisions often overlap.

The Asset Forfeiture and Narcotics Section provides policy and procedural guidance for seizures for forfeiture—whether subject to forfeiture under the provisions of 18 U.S.C. § 981 or 982 or under Title 26 of the IRC, evidentiary seizures, and abandonment. The section maintains a liaison with the Treasury Executive Office for Asset Forfeiture (T-EOAF), as well as close working relationships with Justice's Asset Forfeiture and Money Laundering Section. These offices provide guidelines in response to ever-changing legislative revisions, federal forfeiture case law, and procedural improvements in the forfeiture process. The section also receives additional guidance from the IRS's Office of the Assistant Chief Counsel (Criminal Tax). Guidance is provided to enforcement personnel through T-EOAF policy

As the nation's enforcement efforts in the "War on Drugs" increased during the late 1980s, the expertise of IRS-CID in financial investigations became increasingly important.

directives, the Internal Revenue Manual (IRM) policy, and implementing memorandums. The effectiveness of the program is then reviewed by the Asset Forfeiture and Narcotics Section through post-seizure/forfeiture review, property meetings with the seized asset management contractor, and seized asset management database validation reports. There is also a periodic comprehensive review process conducted at each one of our district offices, which includes a review of the Asset Forfeiture Program.

IRS-CID receives an annual allocation of resources from the T-EAOF to reimburse or pay for forfeiture-related expenditures. Additional allocations are often received from resource reserves for super surplus or the Secretary's Enforcement Fund. These resources have been used not only to reimburse the agency, but also to fund many of the district's needs and to centrally purchase equipment for the field such as computers, mobile radios, and electronic or technical equipment. The Asset Forfeiture and Narcotics Section provides contract employees, who act as asset forfeiture specialists to assist the district office's asset forfeiture coordinators (AFCs), with the administrative aspects of the forfeiture process. Contract employees also provide the data input for the agency's seized asset management database, AFTRAK, as well as much of the processing on equitable sharing requests and petitions for remission. The Asset Forfeiture and Narcotics Section provides periodic training and opportunities for discussion at forfeiture conferences and seminars. The training supports the Asset Forfeiture Program and enables the AFCs to stay abreast of forfeiture policies and procedures in order to improve the pre-seizure planing and to more effectively manage their program area. Training is offered in-house through the T-EAOF and Department of Justice.

The Asset Forfeiture and Narcotics Section also processes seizure documents which require approval or authorization, further recommendation, or a decision from headquarters. All equitable sharing requests, for example, are processed through the section. Those requests valued at less than $1 million are approved or decided by the IRS-CID Assistant Commissioner, or other authorized delegate. Sharing requests valued at, or in excess of, $1 million; all international sharing requests; and requests for transfer of real property as part of the Weed and Seed initiative are all forwarded to the T-EAOF with the agency's recommendation. The section also processes all administrative petitions for remission or mitigation of forfeiture for decision by the Assistant Commissioner.

The functions performed by the staff of the Asset Forfeiture and Narcotics Section and the outstanding efforts completed by IRS-CID enforcement personnel have enabled the agency's Asset Forfeiture Program to fulfill the program goals of the Treasury Forfeiture Fund.

IRS-CID employees in the Asset Forfeiture Program and their areas of responsibility appear below:

- *John Eminger*, (202) 622-5237: asset forfeiture budget (financial plan, reimbursement requests, seizure expenses, budget requests); headquarters finance liaison; contracting officers technical representative (COTR) for CTI contract; procurement issues; and IRM requests.
- *Mike Nelson*, (202) 622-5235: T-EOAF liaison; T-EOAF policy and directive issues; EG&G liaison; and the Weed and Seed Program.
- *Gail Donaldson*, (202) 622-5239: liaison with AFTRAK internal audits; oversight of fiscal reconciliation and year end inventory; GAO liaison; over-aged inventory; petitions for remission; *Views and News* editor; and training.
- *Steve Rubenfeld*, (202) 622-3076: equitable sharing and other duties as assigned.
- *Patti Turner*, (202) 622-5249: AFTRAK/SEACATS program manager; quarterly roll forwards and year end reports; and data for financial statements relative to all assets seized by IRS-CID.
- *Jan Kogut*, (202) 622-5249: AFTRAK/SEACATS field assistance; guidance to AFTRAK unit; reconciliation of real property/currency; preparation for audits; and monthly and quarterly reports for distribution to respective parties.

Letters to the Editor . . .

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INS Completes Vigorous Training Program

By Sue Czerwinski, Program Specialist, Office of Asset Forfeiture, Immigration and Naturalization Service

The Immigration and Naturalization Service's (INS's) Office of Asset Forfeiture recently completed its extensive national training agenda for fiscal year 1998. Ten Asset Forfeiture Training Seminars were presented across the country: three for supervisory personnel, and four basic classes and three advanced classes for special agents and support personnel. Over 400 supervisors, special agents, and support personnel from INS and the Food and Drug Administration (FDA) were trained.

Our cadre of speakers included a wide range of recognized experts in the area of forfeiture such as Director Michael Perez, Asset Forfeiture Management Staff; Assistant Chief Harry Harbin, Deputy Chief Nancy Rider, Trial Attorneys Stephen May, Michael Burke, Linda Samuel, Meg O'Donnell, and Karen Vogel, all from the Asset Forfeiture and Money Laundering Section. Other speakers included: Assistant United States Attorney (AUSA) Leslie Westphal for the District of Oregon; AUSA Joe Florio for the Western District of Texas; AUSA Reid Pixler for the District of Arizona (who is currently prosecuting one of INS's cases); AUSA Ed Kelly for the Southern District of Iowa; AUSA Laurie Sartorio for the District of Utah; AUSA David Salem for the District of Maryland; AUSA Sam Armstrong for the Middle District of Florida; and Operations Manager of Asset Forfeiture John Rooney, Office of Criminal Investigations, FDA. Local U.S. marshal's offices provided presentations on their role and services provided in forfeiture cases.

Trial Attorney Leslie Ohta, Civil Division, and FBI Agent Ron Barndollar, New Haven Office, kept the interest of the trainees in the advanced classes with a live polygraph exam and outlined uses of the polygraph in forfeiture investigations. In addition, we were assisted by Departmental contract personnel from the West River Group, including: Paul King, former chief of the FBI's Forfeiture Unit; Richard Nossen, formerly with the IRS's Criminal Investigation Division, and his associates Dr. Joan Norvelle, Wendy Spaulding, and Sergeant Kelly Lane of the Tucson Police Department; and former FBI Agent Tom Barrett. Mr. Nossen and his associates kept the attendees busy with hands-on work on source and applications of funds problems and with the drafting of financial search warrants. Special Agents Karen Pace and Kevin Sibley of the New York District Office, INS, teamed up with Mr. Barrett to present the forfeiture aspects of an actual INS case now in progress.

An overview of the Financial Crime Enforcement Network (FinCEN) was presented by Senior Financial Enforcement Officer Larry Winingar. He outlined the resources available through FinCEN to assist agents in developing their financial investigations and forfeiture cases. Attorney Christopher "Kip" Byrne, former Assistant Director of Investigations at FDIC—who personally handled the Lincoln Savings and Loan and Charles Keating fraud cases—outlined business structures as they relate to asset ownership and discussed ways to pierce the corporate veil.

As a result of this training, more than a dozen significant smuggling and fraud cases are being worked within INS applying the Service's newly expanded authority and utilizing the resources available through the Asset Forfeiture Program. Several of these cases are nationwide in scope and have international connections. Potential forfeitures in these cases are estimated at over $100 million.

As a result of this training, more than a dozen significant smuggling and fraud cases are being worked within INS. . . .

State and Local Training Update

By Alice Dery, Assistant Chief, AFMLS, Criminal Division

The Asset Forfeiture and Money Laundering Section's (AFMLS's) State and Local Liaison Unit, in coordination with the Arizona Attorney General's Office, conducted a pilot seminar for the new Financial Investigations Curriculum in Scottsdale, Arizona, from June 23-25, 1998. Seventy-five federal, state, and local participants from Arizona took part in the intensive three-day course, which included 16 presentations and workshops on topics ranging from overviews of asset forfeiture, financial investigations, and money laundering to analysis of financial records, net worth analysis, computer forensics, case strategy and packaging, and the identification and integration of resources.

Evaluations produced commentary and helpful suggestions for further refining of some of the topics covered. Overwhelmingly, the presenters and participants found the seminar a positive experience, due in great part to the pre-seminar planning of the Arizona Attorney General's Office's Financial Remedies Unit under the direction of Unit Chief Cameron Holmes.

Work is now underway to revise and refine lesson plans in the Financial Investigations Curriculum for the next pilot for the California District Attorneys Association's Advanced Forfeiture School, November 2-6, 1998. Accompanying audiovisual enhancements will include: computerized graphic presentations to maximize the effectiveness of many of the curriculum modules and two new videos, still in production. The first video will feature interviews with asset forfeiture experts across the country. The second one, consisting of segments matched to course modules, will illustrate and clarify topics covered and will provoke class discussion on problems intrinsic to conducting a financial investigation.

While in Arizona, AFMLS staff—Assistant Chief Alice Dery and Attorneys Araceli Carrigan and Gurnia Michaux-Griffin—attended the National Sheriff's Association Convention in Phoenix, from June 26-30. The Department of Justice's asset forfeiture display booth was part of the convention's exhibits. The display booth is a very effective tool in promoting the benefits of the Asset Forfeiture Program, and the experts who volunteered their time to staff the booth and answer the many questions of state and local law enforcement personnel made the exhibit a success. Kaye Hooker, LECC coordinator for the Western District of Michigan; Julie Boyce, USPIS; and Deanna Day, FBI, lent their enthusiasm and expertise, handing out literature and the new Asset Forfeiture Program rolodex cards with phone numbers for asset forfeiture contacts at participating Justice agencies.

Ms. Dery and Ms. Carrigan, AFMLS; Rebecca Tillman, LECC coordinator for the Western District of Missouri; and Dee Edgeworth, Deputy District Attorney, San Bernardino County, California, addressed convention participants on legislative trends in asset forfeiture; new equitable sharing policies and procedures; agreement, certification, and audit requirements; and ethical issues.

New Department of Justice asset forfeiture rolodex cards are now available from AFMLS. Call the state and local training assistant at (202) 514-0136 to obtain copies.

United States Department of Justice
Asset Forfeiture Program

AFMLS	202-514-1263	USMS	202-307-9221
AFMS	202-616-8000	FDA	301-294-4030
DEA	202-307-8550	USPP	202-690-5050
FBI	202-324-8628	USPIS	202-268-6535
INS	202-616-2737		

UPCOMING TRAINING CONFERENCES

FEDERAL FORFEITURE

- *Seventh Component Seminar*
  August 11-13, 1998
  Chicago, IL

For more information about federal forfeiture conferences, please contact Nancy Martindale, AFMLS, Criminal Division, at (202) 514-1263.

Road to Reinvigoration

If your agency was involved in a case that illustrates how forfeiture was used to dismantle a criminal enterprise, send a summary to AFMLS. In addition, we welcome summaries from Assistant United States Attorneys and LECC coordinators about their successful and innovative programs, in which they alert prosecutors, agents, or law enforcement officers to the use of forfeiture as a law enforcement tool and train them in forfeiture law and financial investigations. Send your stories to Beliue Gebeyehou, via fax: (202) 616-1344 or DOJ e-mail: CRM20(bgebeyeh).

Federal Government Presents $250,000 to North Florida Law Enforcement

By U.S. Attorney's Office, Northern District of Florida

On June 15, 1998, United States Attorney P. Michael Patterson and Resident Agent-in-Charge Gail Linkins, U.S. Secret Service (USSS), Mobile, Alabama, presented checks totaling over $250,000 to northern Florida law enforcement agencies, including: the Escambia County Sheriff's Department; the Florida Department of Law Enforcement; the Bureau of Alcohol, Beverage, and Tobacco (BATF), Florida Division; and the Jackson County, Mississippi, Sheriff's Department.

The presentation of funds is the result of the successful seizure of properties forfeited by individuals involved in illegally purchasing food stamps for cash and redeeming the food stamps which had been purchased through various businesses operated by the defendants. In October 1996, the court ordered that the Texas Gas Station, located on North Davis Highway in Pensacola, Florida, and the BP Gas Station, located on St. Stephens Road in Mobile, Alabama, be forfeited to the United States.

Additionally, defendants reached an agreement with the United States which required them to forfeit $1.8 million in cash, gold, and jewelry. Furthermore, the defendants were ordered to forfeit four other real properties located in Pensacola, Florida. Total forfeitures, as a result of this prosecution, are in excess of $2.3 million. The sharing checks that were presented represent only a portion of those proceeds.

These proceeds are a result of the illegal activity and the successful prosecution of ten individuals and one corporation. Following a two-week trial in December 1995, the defendants were convicted of participating in a scheme to illegally traffic food stamps. Nine defendants were sentenced to imprisonment, probation, and/or monetary restitution.

The successful prosecutions and resulting seizures on this case resulted from interagency cooperation among federal, state, and local law enforcement agencies, including: USSS; the Criminal Investigation Division, Internal Revenue Service; BATF; the Office of Inspector General, U.S. Department of Agriculture; the Pensacola Police Department; the Escambia County Sheriff's Department; the Florida Department of Law Enforcement; and the State of Florida Alcohol Beverages Department.

Train the Trainer Goes to Washington

By Yong Chin, Special Agent, Drug Enforcement Administration, Seattle Field Division; Kate Greenquist, LECC Coordinator, U.S. Attorney's Office, Western District of Washington; and Julie Olson, Task Force Agent, Washington State Patrol, Drug Enforcment Administration, Seattle Division

From April 7-8, 1998, the Drug Enforcement Administration (DEA) and the Department of Justice's Asset Forfeiture and Money Laundering Section (AFMLS) hosted and coordinated an Asset Forfeiture Train the Trainer Workshop in Seattle, Washington.

The goal of regional Train the Trainer seminars conducted throughout the United States is to provide federal, state, and local law enforcement personnel and government attorneys with additional techniques to become more effective communicators and instructors in the area of asset forfeiture. Moreover, these groups of officers and prosecutors will be in a position to work together to design classes in asset forfeiture for state and local law enforcement representatives in their own areas.

The Asset Forfeiture Model Curriculum, developed by the Department of Justice, serves as a basis for these classes. It is hoped that, in bringing together asset forfeiture experts in Train the Trainer seminars, participants will have contacts, support, and information needed to advance the cause of asset forfeiture as a law enforcement tool through which the proceeds of crimes that have burdened local communities become the means by which those communities defeat the effects of criminal enterprise.

Workshop participants were asset forfeiture specialists from local, state, and federal agencies in Washington, Oregon, and Montana. Our group ranged in experience from an Assistant U.S. Attorney with more than 20 years of experience to a first-year narcotics task force detective. The course was professionally taught, with a hands-on approach that provided good, solid information in an entertaining, lively manner.

Facilitators were Tamara Thompson and John DeCore from WPI Peak Performance Solutions, Rockville, Maryland, ably-assisted by Celi Carrigan and Alice Dery, from AFMLS. They provided a variety of techniques and ideas for training, as well as constructive feedback on presentations done by the participants. Those who have taken training with Celi and Alice will be happy to know that this course, too, is full of "icebreakers" and prizes.

The workshop provided an excellent opportunity to see our fellow trainers in action. We were a bit surprised and very pleased with how good our colleagues were. We now have an excellent resource from which to select trainers for future training.

The workshop demonstrated the importance of incorporating all aspects of forfeiture investigations and prosecutions (including both federal and state) in any asset forfeiture training to ensure that the training is complete and comprehensive. This course helped the participants develop skills needed to train our colleagues in developing quality forfeiture cases and prosecutions needed to prevent bad case law from being developed. The course is taught with energy and enthusiasm and provides the participants with techniques and methods that will make their forfeiture presentations informative and entertaining.

We encourage your agency to sponsor a Train the Trainer Workshop as part of your planning effort. The benefits will not only assist you in the understanding and training of asset forfeiture, but also will enhance your presentation skills for training in other areas. We developed a real comradery with our fellow trainers and are anxious to put our training to use in upcoming asset forfeiture workshops.

W.D. Tex. Holds Training for Officers

By David Rosado, Assistant U.S. Attorney, U.S. Attorney's Office, Western District of Texas

A three-day Asset Forfeiture and Financial Investigations Training Seminar held in El Paso, Texas, in early March 1998, proved to be highly successful, according to attendees surveyed at the conclusion of the seminar. The training, which was jointly sponsored by the Asset Forfeiture and Money Laundering Section, Department of Justice, and the LECC for the Western District of Texas, drew praise from law enforcement officers for its in-depth instruction and subject matter coverage. According to most of the officers, this course was the most comprehensive training they had ever received in asset forfeiture.

The instruction covered both state and federal asset forfeiture law, money laundering law and methods, financial search warrants, development of the asset forfeiture case through asset tracking, presentment of financial evidence at trial, tracing of assets through financial institutions, clandestine business records, title searches and other pre-seizure planning steps, and analysis of data obtained from seized computers.

In addition to local presenters, course instruction was given by: Heather Campbell, Office of Chief Counsel, and Phillip Walden, Financial Operations Unit, Drug Enforcement Administration, Washington, D.C.; Special Agent Harold D. Clause, Federal Bureau of Investigation; Postal Forfeiture Specialists Juliann E. Boyce and Tony Sifuentes, El Paso Postal Inspector's Office; and Assistant U.S. Attorneys (AUSAs) Tom Moore, Mike McCrum, and Bud Paulsen, U.S. Attorney's Office for the Western District of Texas. State asset forfeiture law was taught by: Anna Martinez Bolinger, assistant district attorney

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Road to Reinvigoration

***Road**, from page 13*

with the El Paso County, Texas, District Attorney's Office. Other local instructors included AUSA David Rosado, U.S. Attorney's Office for the Western District of Texas; and Assistant Chief Deputy U.S. Marshal Gary Brown and Asset Forfeiture Specialist Rosa Martinez, from the U.S. Marshal's Office in El Paso.

Approximately 120 area law enforcement personnel registered for the seminar, including officers from the San Antonio Police Department and several state prosecutors.

Most important, because the El Paso and the surrounding border area are so heavily involved in the "War on Drugs," law enforcement personnel in both western and central Texas have a tremendous interest in asset forfeiture. Many of the officers requested that we schedule another asset forfeiture conference next year.

Seizure and Forfeiture of Historical Artifacts

By Bonnie Linn, Office Manager, Dyncorp, Inc., U.S. Attorney's Office, Eastern District of New York

The U.S. Attorney's Office for Eastern District of New York recently presented artifacts of historical, religious, and cultural significance to the Consul General of the Ukraine and to the National Museum of the American Indian, Smithsonian Institution.

On April 15, 1998, U.S. Attorney (USA) Zachary W. Carter presented the National Museum of the American Indian with Native American artifacts that were seized and forfeited in 1997 as a result of a criminal investigation conducted by the Internal Revenue Service. The indictment charged the defendants with federal income tax evasion, firearms violations, and wire fraud. The artifacts—a Plains Indian headdress and necklace—were seized, *inter alia*, by the United States because they were items that had been reported as stolen in a nearly $1 million fraudulent insurance claim. The defendants were avid collectors of Native American artifacts and, as part of their plea agreements, they signed out-of-court stipulations and releases allowing their collection to be liquidated in order to satisfy any criminal fine or tax assessment.

However, the Endangered Species Act of 1973 prohibits the sale of any artifacts that are composed of elements of an endangered species. Because the headdress and necklace were composed of eagle claws and feathers, the United States was prohibited from selling these items and applying any funds received to the criminal fines or tax assessments. According to the National Fish and Wildlife Service, there are several options available for disposing of items of nature: (1) the items can be turned over to the National Fish and Wildlife Service, which will store and make them available to the Indian Nation for ceremonies; (2) the items can be returned to the Indian Nation if the appropriate storage facilities are available; or (3) the items can be donated to a museum.

In a separate presentation on May 12, 1998, USA Carter presented the Consul General of the Ukranian government at the Consulate in New York with 123 religious icons and artifacts that were smuggled out of the Ukraine and into the United States by a flight attendant. The U.S. Customs Service confiscated the items in June 1994, and the artifacts were forfeited to the United States as a result of an investigation that was conducted within the Eastern District of New York.

The claimant in this case contended that since he had no involvement with shipping the items to the United States, he should not have to forfeit his interest and that he was an innocent owner. The claimant also objected to the United States' decision to return the artifacts to the Ukraine and argued that the United States must hold a public auction pursuant to 19 U.S.C. § 1609. However, in his motion for summary judgment, AUSA Vincent Lipari pointed out that the United States may "dispose of the same according to law" and that the United States may use its discretion when disposing of forfeited assets. The court agreed, stating that the claimant provided "no basis for his claim [and] that the United States must act in accordance with an explicit statutory or regulatory directive in disposing of the forfeited items."

Equitable Sharing is Working in M.D. Fla.

By Charity Woods, Assistant U.S. Attorney, U.S. Attorney's Office, Middle District of Florida

In October 1996, the Federal Bureau of Investigation, as part of a joint task force with the Tampa Police Department, conducted an undercover operation targeting Ricardo Taborda, John Carlos Puyo Alvarez, Richardo Rene Taborda, and their associates. In June 1997, members of the New York City Police Department helped conduct surveillance of Ricardo Taborda and his associates. On June 6, 1997, an undercover reverse sting operation was conducted, and during the search of a van, *inter alia*, $639,585.00 in currency was seized.

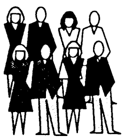
Ricardo Taborda was charged on June 25, 1997, with one count of possession with the intent to distribute five or more kilograms of cocaine in violation of 21 U.S.C. § 846. On December 5, 1997, a jury returned a verdict of guilty, and Taborda was sentenced to 262 months in prison.

The information was provided to the U.S. Attorney's Office, and on June 17, 1997, a complaint was filed seeking forfeiture of the currency pursuant to 21 U.S.C. § 881(a)(6). On October 11, 1997, a default judgment was entered forfeiting the currency to the United States.

The Tampa Police Department, as well as the New York City Police Department, requested equitable sharing for their participation in this case. In February 1998, the U.S. Attorney's Office presented checks to both agencies. The New York City and Tampa Police Departments received checks in the amount of $95,639.47 and $239,098.66, respectively.

In order to see how the funds have really helped the participating agencies, the U.S. Attorney's Office for the Middle District of Florida examined how the money is being used by the Tampa Police Department: We wanted to know how the agency benefitted from the sharing. The $239,098.66 was deposited into the Law Enforcement Trust Fund to be used to purchase mobile digital terminals (computers to be placed in the police vehicles). The Tampa Police Department is now initiating a "take home" car program and will install a computer in each vehicle. Purchases will include modem, radio, console, and cables. They are expecting to purchase 48 computers, each at an estimated price of $5,000.

People and Places . . .



. . . DEA's New Forfeiture Counsel

One June 8, 1998, *John Hieronymus* became the forfeiture counsel for the Drug Enforcement Administration (DEA), replacing William Snider who retired last year after serving many years as forfeiture counsel. John Hieronymus received his juris doctor from the Detroit College of Law and is a member of the Michigan, District of Columbia, and Pennsylvania bars.

Mr. Hieronymus began his law enforcement career in 1974 as a police officer in Southfield, Michigan. He left the police department in 1983 to accept a position with DEA as a special agent in the Detroit Division. He was transferred one year later to the Philadelphia Division, where he served for three years. In 1986 Mr. Hieronymus was one of the attorney-special agents who were asked by DEA to transfer to its Office of Chief Counsel's Asset Forfeiture Section, in order to assist with the rapidly increasing number of administrative forfeiture cases being handled by DEA. From 1986 to 1989, he handled all aspects of asset forfeiture as a staff attorney in DEA's Asset Forfeiture Section.

In February 1989, he accepted a position as an Assistant United States Attorney (AUSA) for the Western District of Michigan. In that position, Mr. Heironymus supervised the Asset Forfeiture Unit and handled a diverse civil and criminal caseload. He is proud of his and other AUSAs' accomplishments, especially in the United States Courts of Appeals for for the Sixth and Ninth Circuits, where they defended a large volume of double jeopardy appeals that were filed before the issue was finally settled by the Supreme

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People and Places . . .

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Court. He has also been an instructor and participant in many DEA, AFMLS, FBI, LECC, and other asset forfeiture functions at the federal, state, and local levels. Additionally, he has been a frequent participant at the Asset Forfeiture Working Group that periodically meets to discuss all aspects of asset forfeiture among all federal agencies and components.

In his current position with DEA, Mr. Hieronymus intends to utilize his asset forfeiture experience to further the use of asset forfeiture as an effective law enforcement tool. He will continue to support close coordination among the investigative agencies, U.S. Attorneys' Offices, AFMLS, and other agency components regarding all aspects of asset forfeiture, as he believes that coordination, more than ever, is imperative for the continued success of the Department of Justice's Asset Forfeiture Program.

. . . New Assistant Director at EOUSA

Timothy D. Wing has recently joined the Executive Office for United States Attorneys as Assistant Director, Legal Programs.

Mr. Wing first joined the Department of Justice in 1991 as an Assistant U.S. Attorney (AUSA) for the District of Maine, where he was assigned to the Criminal Division's Organized Crime Drug Enforcement Task Force, responsible for the prosecution of narcotics cases and related criminal forfeitures. Previously, Mr. Wing was an Assistant Attorney General with the State of Maine, and he was also cross-designated as Special AUSA assigned to the Maine Bureau of Intergovernmental Drug Enforcement. In his position as Special AUSA, Mr. Wing was responsible for the investigation and prosecution of civil forfeiture cases and related criminal cases.

From 1985 to 1990, Mr. Wing served on active duty with the U.S. Navy, Judge Advocate General's Corps, which included assignments as a trial attorney and staff judge advocate. In 1990 Mr. Wing joined the Naval Reserve as an instructor at the Naval Justice School, and he has also served as the staff judge advocate, Iceland Defense Force. In addition to the Naval Reserve, Mr. Wing has been an instructor of business law and international relations as an adjunct professor.

Mr. Wing obtained his law degree from the University of Maine School of Law in 1985 and is a 1990 graduate of the U.S. Naval War College.

. . . New Criminal Division Attorneys

Daniel H. Claman has recently joined the Asset Forfeiture and Money Laundering Section (AFMLS) as special counsel for international forfeiture matters. Mr. Claman previously worked in the Civil Rights Division, where he had substantial litigation experience with the Voting Section working on legislative redistricting and other voting rights cases. He joined the Department of Justice in November 1993 through the Attorney General's Honor Program after receiving his law degree from Georgetown University Law Center, where he was a public interest law scholar. Prior to studying law, Mr. Claman worked for the Senate Judiciary Committee and as an immigration counselor. Mr. Claman earned his bachelors degree from Georgetown University, where he majored in comparative politics and received a Latin American Studies Certificate. Mr. Claman is fluent in Spanish and has lived and traveled in Central and South America. He replaces Juan Marrero, who left the Department to become an administrative law judge.

AFMLS also welcomes Trial Attorney *Laurel Loomis*. Previously, she was a trial attorney with the Terrorism and Violent Crime Section, Criminal Division, during which time she spent five months prosecuting drug and alien smuggling cases on detail at the U.S. Attorney's Office for the Southern District of California. Before coming to the Criminal Division, Ms. Loomis was a trial attorney with the Commercial Litigation Branch, Civil Division, where she handled both trial and appellate cases in the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Federal Claims, and the U.S. Court of International Trade.

Prior to joining the Department of Justice, Ms. Loomis was a law clerk for the Honorable Kenneth Harkins of the U.S. Court of Federal Claims. She graduated from Southwestern University

School of Law and received her bachelor's degree in sociology from the University of California at Berkeley in 1988.

. . . Newly Appointed AUSA in M.D. Ga.

Rena Johnson was appointed to the position of Assistant U.S. Attorney (AUSA) for the Middle District of Georgia by the Honorable Beverly Martin, United States Attorney, on June 10, 1998.

AUSA Johnson graduated magna cum laude from Birmingham-Southern College in 1988 with a bachelor of science degree in foreign service. She went on to receive her law degree at Georgetown University Law Center in 1991, where she was a senior projects editor of the *American Criminal Law Review.*

She began her law career in 1991 as a law clerk for the Honorable George P. Kazen, U.S. District Court Judge, Southern District of Texas. From 1992 to 1993 she was a senior law clerk for the Honorable William D. Hutchinson, Judge, U.S. Court of Appeals for the Third Circuit.

In 1993 AUSA Johnson joined AFMLS (then called the Asset Forfeiture Office), Criminal Division, through the Attorney General's Honor Program. During her four years at AFMLS, she worked in the Litigation Unit, and in 1994 she served as Special AUSA for the Eastern District of Virginia.

In 1997 AUSA Johnson was appointed by the Honorable Susan M. Collins, U.S. Senator (R-Me.), as Majority Counsel to the Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

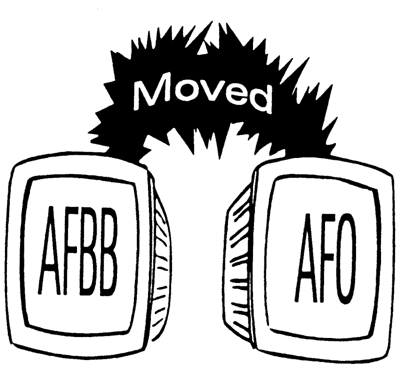
We have moved . . .

The Asset Forfeiture Bulletin Board has been renamed **Asset Forfeiture Online (AFO)** and relocated to **Law Enforcement On Line (LEO)**, an Intranet set up for federal, state, and local law enforcement.

Why?

The move to LEO will provide greater services and resources to our users such as:

- a national focal point for law enforcement electronic communication, education, and information sharing;
- free client software;
- easy access through a user-friendly interface;
- interactive computer communications providing e-mail capability to the user;
- state-of-the-art technology; and
- a library, distance learning, calendar, information boards, address book, and topical focus area.



How?

Simply fill out the Law Enforcement User Application Form and mail or fax it to:

LEO Program Office
FBI, CJIS Division
Room 11255
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Phone: (202) 324-8833
Fax: (202) 324-3364

To obtain an application, contact AFO Moderator Morenike Soremekun at (202) 307-0265.

When?

The free software will be mailed to you within one week of receipt of your application.

Indicate on your form that you are registering to join the *Asset Forfeiture Online (AFO) Law Enforcement Special Interest Group.*

Deadline: Act Now!

All users must register with LEO to access the AFO by *August 31, 1998.* The server you are now using to access the AFBB will be shut down on *September 1, 1998.*

Please contact AFO Moderator Morenike Soremekun at (202) 307-0265. We hope you enjoy the new AFO!

Equitable Sharing News

USPIS and IRS Investigate La Salle University

By Sanna Storm, Attorney, DynCorp Government Services, and Steven Schlesinger, Trial Attorney, AFMLS, Criminal Division

ED/Louisiana—In May 1991, the Federal Bureau of Investigation (FBI) received information that LaSalle University (LU) was fraudulently advertising its school as an accredited institution. LU advertised as a Christian University owned by the World Christian Church (WCC) which offered post-secondary degrees in numerous disciplines through "external studies," or "correspondence studies" through the mail. Sample rates for degree programs were as follows: bachelors, $2,095; masters, $2,195; and doctorate, $2,395. Students were able to complete whichever degree they chose within one year. LU allegedly was accredited through the Council on Post-Secondary Christian Education, which is owned and operated by the WCC and whose address is a mail drop in Washington, D.C. The U.S. Postal Inspection Service (USPIS) began investigating WCC/LU for mail fraud in 1991, and the Internal Revenue Service (IRS) began investigating WCC/LU for tax fraud in 1993. Both agencies joined the FBI investigation in 1996.

In order to thwart the investigation, the WCC/LU would periodically move its locations and fire existing employees to eliminate any possible employee-provided information. In 1995 WCC/LU purchased property in Mandeville, Louisiana, and ceased its practice of periodically dismissing employees. Later that year, the FBI developed informants provided by local law enforcement. Based on information developed from the informants, the FBI was able to obtain enough probable cause to acquire search warrants.

On July 10, 1996, FBI agents and local law enforcement officers executed search warrants at multiple locations in Mandeville, Louisiana, and seized over $10 million in U.S. currency. WCC/LU President Thomas Kirk was arrested and indicted for mail fraud, conspiracy, and money laundering. Pursuant to a plea agreement, Kirk consented to the civil forfeiture of the seized currency and his residence located at 40 Audubon Drive. On March 31, 1997, the court civilly forfeited the currency and property and ordered that the currency be applied towards victim restitution. The U.S. Marshals Service sold the real property for $1,285,000 on July 26, 1997. On June 15, 1998, the Acting Assistant Attorney General approved equitable sharing among the participating law enforcement agencies. The IRS and USPIS each will receive a 20 percent share, the Slidell Police Department will receive a 17 percent share, the St. Tammany Parish Sheriff's Office will receive a 10 percent share, and the Mandeville Police Department will receive a five percent share. The remaining 28 percent will be deposited into the Assets Forfeiture Fund.

The investigation into WCC/LU was successful due to the joint investigative efforts of the FBI, IRS, USPIS, and local agencies.

Investigation of Marijuana Ring Leads to Forfeiture of $2.9 Million

By Sanna Storm, Attorney, DynCorp Government Services, and Irene Gutierrez, Trial Attorney, AFMLS, Criminal Division

D/New Jersey—In September 1993, the Somerset County, New Jersey, Prosecutor's Office (SCPO) received information about a large international marijuana importation and distribution operation that was using a Branchburg, New Jersey, townhouse as a distribution center. According to the source of information, the operation imported marijuana from Mexico via California and Arizona. Based on this information, SCPO searched the townhouse, seized 800 pounds of marijuana, and arrested three suspects. Because of the breadth of the operation, SCPO contacted the Federal Bureau of Investigation (FBI) to join them in the investigation.

In October 1993, the FBI

learned of a related Drug Enforcement Administration (DEA) task force investigation into a Mexican drug organization operated by Jose Luis Somoza Frasquilla in Phoenix, Arizona. Using information from the Phoenix investigation, the FBI Newark office learned that drug proceeds were being laundered through phony companies in New Jersey. The FBI identified several cellular telephones and calling card accounts with direct links to California and Arizona areas prominent in the Phoenix investigation. As a result, the FBI identified several individuals connected to the marijuana operation and initiated financial investigations into the organization.

In October 1993, Customs agents in San Francisco seized twelve tons of marijuana and arrested four individuals, including Singer. Pursuant to a plea agreement dated October 16, 1995, Singer consented to the forfeiture of $500,000 in U.S. currency and agreed to cooperate with the authorities. The U.S. Customs Service (USCS) then contacted the FBI Newark office about individuals in New Jersey that Singer identified as members of the drug organization. Customs agents traveled with Singer to New Jersey and assisted the FBI with interviewing Singer and several of his associates. Singer and the other individuals were then reindicted in New Jersey for drug and money laundering charges.

On February 19, 1997, FBI agents seized $2,927,664.20 in cash from Singer, and on March 4, 1997, a consent judgment and order of forfeiture was entered into between the United States and Singer. On April 16, 1997, a final order of forfeiture was entered against the currency pursuant to 18 U.S.C. § 981 *et seq*. On June 18, 1998, the Acting Assistant Attorney General, Criminal Division, approved equitable sharing of the seized currency with the participating agencies. The Somerset County Prosecutor's Office share is 5 percent; and the Internal Revenue Service's share of 20 percent and USCS's share of 37 percent was deposited into the Treasury Forfeiture Fund. The remaining 38 percent was deposited into the Assets Forfeiture Fund.

To date, the agencies participating in this investigation have identified approximately 20 suspects and have arrested and charged 15 subjects involved in the importation and distribution of Mexican marijuana to the New York area. The Mexican "Frasquilla" organization supplied most of the marijuana, which is imported through Phoenix and New York.

Saccoccia case

Saccoccia, from page 7

(1997). In the instant case, the Government sought to depose Saccoccia's attorneys for the primary purpose of locating the well to which defense counsel were going for their fees so that the Government could go to the same well to satisfy its forfeiture judgment. Upon learning of the form and manner of the fees, the Government was compelled to seek their forfeiture.

This action is being handled by AUSAs James H. Leavey and Michael P. Iannotti for the District of Rhode Island and Trial Attorney Michael E. Davitt, AFMLS, Criminal Division.

Endnotes

[1] The Asset Forfeiture Office, now called the Asset Forfeiture and Money Laundering Section, was consulted before this application was filed. Also, since such depositions would be compelled by subpoenas, approval from the Criminal Division was sought and received, pursuant to *United States Attorneys' Manual* § 9-13.410, regarding subpoenas to attorneys.

Treasury Trends

By Charles Ott, Special Projects Officer, Executive Office of Asset Forfeiture, Department of the Treasury

Gnatcatcher Flyways

During its six-year history, the Treasury Forfeiture Fund has been able to sanction the donation of clothing to Bosnian refugees, World Cup soccer balls to inner-city school districts, and various parcels of real property to community development associations as well as community policing efforts. Now, Treasury's Executive Office for Asset Forfeiture has recently given approval to a Customs recommendation that would transfer almost 89 acres of forfeited property to the U.S. Fish and Wildlife Service to be added to the San Diego national wildlife refuge (NWR) as a corridor of habitat essential for the threatened California gnatcatcher.

This acreage was forfeited as the result of an investigation of a major money laundering operation by the Customs special agent-in-charge in San Diego. The land will be added to the Otay-Sweetwater Unit of the San Diego NWR, which was established in 1997 to preserve, restore and enhance habitat for endangered species and migratory birds as well as to preserve biological diversity in the county. The San Diego NWR enjoys the support of many private conservation and citizens groups and will be able to add the Treasury Forfeiture Fund to its list of benefactors.

International Asset Sharings

While the Treasury Forfeiture Fund statute (31 U.S.C. § 9702) directs that equitable sharing payments made to state or local law enforcement agencies bear a reasonable relationship to the degree of participation of those agencies to the total law enforcement effort resulting in the forfeiture, there is no similar charge regarding asset sharings in international cases. In fact, the statute simply notes that the Secretary of the Treasury may transfer forfeited personal property or the proceeds of the sale of forfeited property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, provided that the Secretary of State agrees to the transfer and that there exists an international agreement authorizing it. How then does one determine a fair asset sharing in cases involving foreign law enforcement agencies?

This question was addressed in a 1995 memorandum of understanding (MOU) between the Departments of Justice and the Treasury, which set out some illustrative guidelines on the types of forfeiture assistance that a foreign country may provide and suggested percentages that might be shared as a result of that assistance. The purpose of the MOU was to promote general consistency between the Departments so that foreign countries providing similar degrees of assistance to the United States would not have cause to believe that they were being treated unfairly.

The MOU categorizes foreign forfeiture assistance in a broad three-tier framework. In the first tier is assistance that is essential for the forfeiture of the property under U.S. law. The second tier encompasses cases in which the foreign country enforces our forfeiture judgments and returns the property or expends substantial time and money to provide investigative or legal aid. In the third tier is assistance that facilitates a forfeiture action in the United States. It suggests that first-tier assistance may well warrant asset sharing between 50 and 80 percent of the net proceeds, second tier assistance may merit sharings between 40 and 50 percent, while third-tier assistance might call for sharings up to 40 percent. These are, however, just guidelines and the MOU recognizes the appropriateness of deviations as necessary.

Promoting forfeiture assistance among nations is the main objective of international asset sharing. To obtain a copy of the Treasury-Justice MOU contact T-EOAF at (202) 622-9600, or just fax your request to (202) 622-9610.